Advocates for Rural Broadband
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Filed Via ECFS
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WC Docket Nos. 10-90 and 14-228; and CC Docket No. 01-92

Dear Ms. Dortch:

On Wednesday, December 17, 2014, Joshua Seidemann representing NTCA–The Rural Broadband Association ("NTCA"), Colin Sandy representing the National Exchange Carrier Association ("NECA"), and Derrick Owens and Gerard Duffy representing WTA – Advocates for Rural Broadband ("WTA") met with Pam Arluk, Robin Cohn (by phone), Victoria Goldberg, Deena Shetler and Douglas Slotten of the Wireline Competition Bureau to discuss disputes and issues regarding purported intraMTA wireless traffic exchanged by interexchange carriers ("IXCs") over access trunks, and the current efforts of some IXCs to use unjust and unreasonable self-help practices to circumvent pending Commission and court proceedings.

The Rural Associations indicated that they support the November 10, 2014, petition for declaratory ruling of the LEC Coalition,[1] and noted that many of their member local exchange carriers ("LECs") are among the more than 850 defendants in the almost seventy pending intraMTA lawsuits brought by Sprint Communications Company, L.P. ("Sprint"), and by MCI Communications Services, Inc. and Verizon Select Services Inc. ("MCI/Verizon").

The Rural Associations emphasized that the intraMTA rule includes a clear requirement that the parties exchanging such traffic cooperate to identify, measure and/or estimate it - for example, by taking samples or conducting traffic studies.[2] Absent such cooperation and coordination among the parties, there is a vacuum in which traffic cannot be established as intraMTA in nature pursuant to current industry standards and practices. The Rural Associations stated that the IXCs pursuing intraMTA lawsuits (Sprint and MCI/Verizon) do not appear to have offered any of the required cooperation until after such lawsuits were filed earlier this year. Specifically, neither the IXCs nor their still largely unidentified CMRS provider customers ever notified LECs prior to mid-2014 whether and to what degree they were comingling intraMTA calls on particular access trunks during any given period of time. Nor did the IXCs provide call identification information that would have helped the IXCs and LECs to work together to measure or estimate the amount of intraMTA traffic that was being intermixed by the IXCs with other traffic on access trunks. Even more recently after disputes and lawsuits were filed during mid-2014, several IXCs have submitted proposed intraMTA traffic factors to some

[1] *Petition for Declaratory Ruling to Clarify the Applicability of the IntraMTA Rule to LEC-IXC Traffic and Confirm that Related IXC Conduct is Inconsistent with the Communications Act of 1934, as Amended, and the Commission's Implementing Rules and Policies* (filed Nov. 10, 2014).

[2] *Connect America Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*"), at FN 2132 (citing Para. 1044 of *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499 (1996)).

LECs, but have generally failed to furnish the call detail necessary for the LECs to check the accuracy of such proposed factors. Finally, the IXCs (which are large and sophisticated carriers that participated actively in the rulemakings where the intraMTA rule was adopted and clarified) received and paid monthly access bills for what appears to have been at least several years without disputing such bills or otherwise complaining that they allegedly included charges for intraMTA traffic.

The status and rights of IXCs with respect to comingled intraMTA traffic remain unclear. Paragraph 1006 of the *USF/ICC Transformation Order* reiterated that transiting carriers are not considered to be originating carriers for reciprocal compensation purposes. Moreover, only CMRS providers have clear rights under Sections 51.703 and 20.11 of the Commission's Rules to avail themselves of reciprocal compensation via established interconnection negotiation processes. Most member LECs at this time still have not been informed of the identities of the CMRS providers whose traffic is being exchanged with them via IXCs, and upon further investigation, it also appears that the degree to which a given IXC carries any given CMRS provider's traffic may change frequently.

The Rural Associations believe that the total disregard by IXCs and their CMRS provider customers of the cooperation requirements of the intraMTA rule warrants grant of the relief requested by the LEC Coalition, particularly during the periods prior to the mid-2014 filing of the pending disputes and lawsuits. In addition, the Rural Associations ask the Commission or Bureau to reiterate that self-help – particularly via non-payment of undisputed current bills and charges – is an unjust and unreasonable practice prohibited by Section 201 of the Communications Act of 1934, as amended. The Rural Associations are increasingly hearing complaints from their member LECs that certain IXCs are refusing to pay undisputed portions of current access bills, and/or are claiming inflated intraMTA traffic factors far in excess of likely intraMTA traffic. These practices appear to be a way of obtaining "refunds" of previously paid access charges without filing an intraMTA lawsuit, or in case a pending intraMTA lawsuit is dismissed or resolved without the award of a refund.

Pursuant to Section 1.1206(b) of the Commission's Rules, this submission is being filed for inclusion in the public record of the referenced proceedings.

Respectfully submitted,

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